

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Bail Appl..No. 4447 of 2007()

CC.201/2005 of J.M.F.C.,CHAVAKKAD

.....

: PETITIONER/ACCUSED

SHAFI, S/O.HAMEED, AGED 30 YEARS,
PUZHANGARA ILLATH VALIPARAMBIL HOUSE,
P.O.KADAPURAM, KADAPURAM VILLAGE,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFAEEK

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.4447 of 2007

Dated this the 24th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations of having committed offences punishable, inter alia, under Section 27 of the Arms Act. The alleged incident took place in the year 2000. Final report was filed. The co-accused have faced trial. The 3rd accused has been convicted. Consequent to non appearance of the petitioner, a warrant of arrest issued by the learned Magistrate is chasing him.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 438 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law

and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. This application for anticipatory bail is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-